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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2016

TERRIE L. SMITH  
30870 Riverside Drive, Apt. 107  
Lake Elsinore, CA 92530

**A C C U S A T I O N**

Respiratory Care Practitioner  
License No. 18898

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about September 6, 1996, the Respiratory Care Board issued Respiratory Care Practitioner License No. 18898 to TERRIE L. SMITH (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2006, unless renewed.

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3. This Accusation is brought before the Respiratory Care Board (Board),

4. Section 3710 of the Code states, in pertinent part: “The Respiratory Care

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following

“(d) Conviction of a crime that substantially relates to the qualifications, functions, and duties of a respiratory care practitioner. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, or attempting to induce another person to violate, or attempting to do so directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, or attempting to do so directly or indirectly, any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

7. California Code of Regulations, title 16, section 1399.370, states, in

“For the purposes of denial, suspension, or revocation of a license, a crime or act considered to be substantially related to the qualifications, functions or duties of a

1 respiratory care practitioner, if it evidences present or potential unfitness of a licensee to  
2 perform the functions authorized by his or her license or in a manner inconsistent with the  
3 public health, safety, or welfare. Such crimes or acts shall include but not be limited to  
4 those involving the following:

5 “(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting  
6 the violation of or conspiring to violate any provision or term of the Act.

7 “. . .

8 “(c) Conviction of a crime involving driving under the influence or reckless driving  
9 while under the influence.

10 “. . .”

#### 11 COST RECOVERY

12 8. Section 3753.5, subdivision (a) of the Code states, in pertinent part:

13 "In any order issued in resolution of a disciplinary proceeding before the board, the  
14 board or the administrative law judge may direct any practitioner or applicant found to have  
15 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the  
16 investigation and prosecution of the case."

17 9. Section 3753.7 of the Code states :

18 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall  
19 include attorney general or other prosecuting attorney fees, expert witness fees, and other  
20 administrative, filing, and service fees."

21 10. Section 3753.1 of the Code states, in pertinent part:

22 "(a) An administrative disciplinary decision imposing terms of probation may  
23 include, among other things, a requirement that the licensee-probationer pay the monetary costs  
24 associated with monitoring the probation."

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1 CAUSE FOR DISCIPLINE

2 (Conviction of a Crime)

3 11. Respondent is subject to disciplinary action under Code sections 3750(d)  
4 and 3750(g), in that she was convicted of a crime substantially related to the qualifications,  
5 functions, or duties or a respiratory care practitioner. The circumstances are as follows:

6 A. On or about May 11, 2003, at 9:36 a.m., the Riverside County  
7 Sheriff's Office responded to a call of an intoxicated driver driving over planter  
8 beds and having difficulty driving her vehicle. The responding deputy sheriff  
9 (deputy) noticed a Blue Volvo, with tire damage and parked diagonally in the  
10 parking lot in front of a cement parking barrier that was crushed by the Volvo.  
11 Upon contact with the driver, Respondent told the deputy she had worked all night  
12 and took some sleeping pills on her way home. She stated she took the sleeping  
13 pills with some beer and showed the deputy the cup in the front seat of the Volvo  
14 which appeared to contain an alcoholic beverage. Respondent further stated she  
15 then picked up her four year-old son from home and drove to get some food.  
16 Respondent staggered from side-to-side while talking to the deputy and her speech  
17 was extremely slurred, and her eyes were red and watery. The deputy requested  
18 Respondent perform a field sobriety test. Respondent failed the field sobriety test.  
19 When the deputy requested Respondent produce her driver's license, Respondent  
20 told the deputy her driver's license had been suspended, and she did not have  
21 insurance. The deputy asked Respondent's four year-old son to tell him what  
22 happened. The four-year old said he noticed his mom swerved off the roadway  
23 several times and that during the entire time she was turning, she was on the wrong  
24 side of the road. He said he was scared while she was driving and did not want to  
25 get back in the car with her. The deputy located an empty beer bottle in the glove  
26 compartment and five more opened beer bottle containers in the trunk of the  
27 vehicle. Respondent was subsequently arrested.

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B. On or about May 13, 2003, a Misdemeanor Complaint was filed in the Municipal Court, Three Lakes, Judicial District, County of Riverside, State of California, entitled *The People of the State of California v. Terrie Lynn Smith*, Case No. SWM018330, charging Respondent with Count 1 - violating Vehicle Code section 23152(a) [driving a vehicle while under the influence of an alcoholic beverage and a drug under their combined influence and Count 2 - violating Vehicle Code section 14601.2(a) [driving a motor vehicle upon a public highway while her driving privileges had been suspended and revoked for driving under the influence of an alcoholic beverage and a drug combined influence, having knowledge of such suspension and revocation.

C. On July 7, 2003, Respondent failed to appear as ordered in the citation issued to her. An additional charge was added to the Complaint for violating Vehicle Code section 40508(a) [failure to appear].

D. On or about July 18, 2005, Respondent pled guilty to violating Vehicle Code section 23152(a), Vehicle Code section 14601.1(a), and Vehicle Code section 40508(a). She was granted summary probation for the period of 36 months with terms and conditions.

## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking or suspending Respiratory Care Practitioner License No. 18898,  
issued to TERRIE L. SMITH;

2. Ordering TERRIE L. SMITH to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

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3. Taking such other and further action as deemed necessary and proper.

DATED: March 2, 2006

Original signed by Liane Zimmerman for: \_\_\_\_\_  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
Complainant